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Date: FEBRUARY 25, 2005

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U.S. PATENT AND TRADEMARK OFFICE

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Client/Matter No.: T00349 (7780/18)

# of Pages: 14

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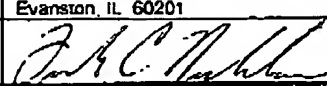
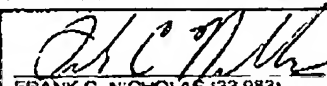
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	Application Number	10/040,288
	Filing Date	OCTOBER 25, 2001
	First Named Inventor	ROBERT J. MENENDEZ
	Group Art Unit	2843
	Examiner	NGUYEN, DUC MINH

ENCLOSURES (check all that apply)		
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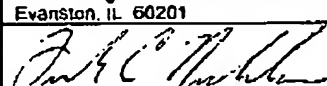
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	Application Number	10/040,268
	Filing Date	OCTOBER 25, 2001
	First Named Inventor	ROBERT J. MENENDEZ
	Group Art Unit	2643
	Examiner	NGUYEN, DUC MINH

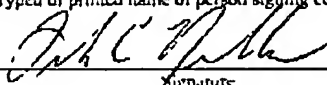
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First Presentation of Multiple Dep. Claim					+ \$180=	--	+ \$360=	
					total add'l fee		total add'l fee	
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**PATENT-APPEAL**  
**Case No. 7780/18 (T00349)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:	)	
	)	
ROBERT J. MENENDEZ	)	Examiner: NGUYEN, DUC MINH
	)	
Serial No.: 10/040,288	)	
	)	
Filed: OCTOBER 25, 2001	)	Group Art Unit: 2643
	)	
Title: SYSTEM FOR MONITORING	)	
A SERVICE VEHICLE	)	

**APPEAL BRIEF**

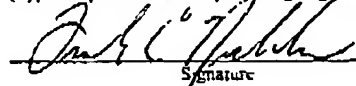
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P.O. Box 1450  
Alexandria, VA 22202-1450

Sir:

This is an appeal from the final rejection of claims 1-31 in the Office Action mailed  
December 6, 2004.

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**PATENT-APPEAL**  
**Case No. 7780/18 (T00349)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:	)	
	)	
ROBERT J. MENENDEZ	)	Examiner: NGUYEN, DUC MINH
	)	
Serial No.: 10/040,288	)	
	)	Group Art Unit: 2643
Filed: OCTOBER 25, 2001	)	
	)	
Title: SYSTEM FOR MONITORING	)	
A SERVICE VEHICLE	)	

**APPEAL BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22202-1450

Sir:

This is an appeal from the final rejection of claims 1-31 in the Office Action mailed  
December 6, 2004.

February 25, 2005  
Case No.: 7780/18 (T00349)  
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Filed: October 25, 2001  
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**REAL PARTY IN INTEREST**

The real party in interest is SBC Knowledge Ventures.

**RELATED APPEALS AND INTERFERENCES**

No other appeals or interferences are known which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

**STATUS OF CLAIMS**

This application was filed October 25, 2001 with claims 1-31 (reproduced in the Claims Appendix). The claims were not amended, and are the subject of the present appeal.

**STATUS OF AMENDMENTS**

There are no unentered amendments.

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### SUMMARY OF CLAIMED SUBJECT MATTER

The invention is a service vehicle 12 for making service calls at a plurality of locations. The service vehicle comprises a position determination device 14, one or more subsystem indicators 16, 18 indicating a condition of a subsystem of the service vehicle, an associated mobile communications device 20, and a hub 24 in permanent communication with a central computer. The hub communicates with the position determination device, the subsystem indicator, and the mobile communication device:

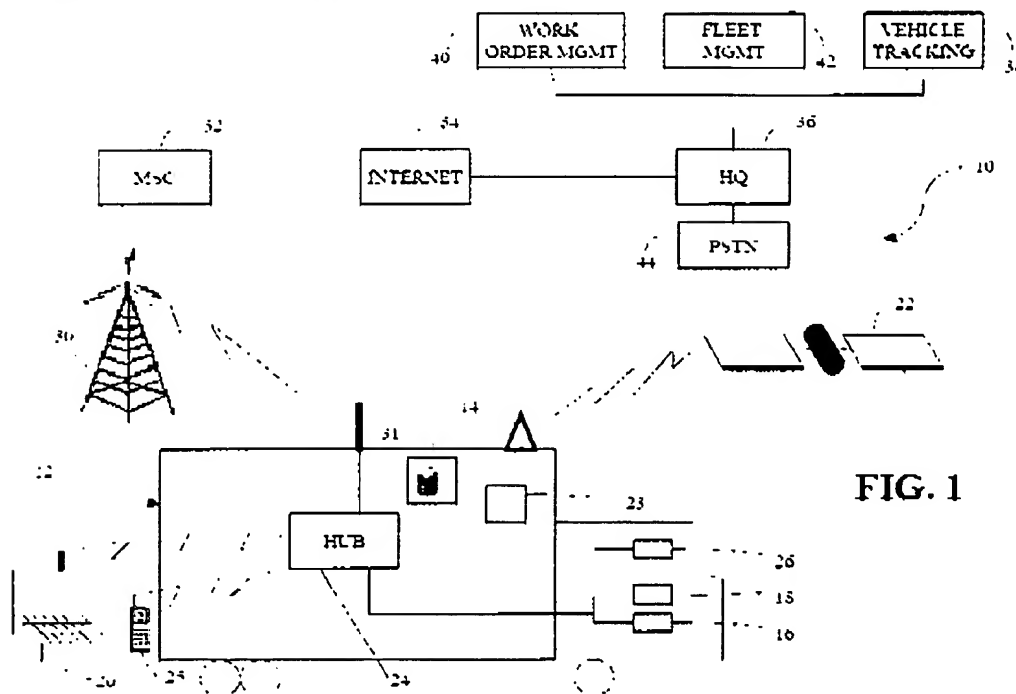


FIG. 1

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**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

All of the claims were finally rejected, in whole or in part, over U.S. Patent No. 6,703,946 to Flick. Flick '946 was filed after the present application as a continuation-in-part of an application filed on May 17, 2001, which in turn is apparently related to a series of earlier provisional applications. The Examiner maintains that these provisional applications provide a date under which Flick '946 qualifies as prior art under 35 U.S.C. §102(e).

The question in this appeal is whether an issued U.S. patent qualifies as prior art under §102(e) as of the date of an earlier provisional application to which it claims priority.

**GROUPING OF CLAIMS**

Claims 1, 16 and 31 are the independent claims involved in the appeal. The dependent claims stand or fall with their respective independent claim.

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**ARGUMENT**

Section 102(e) requires that an invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent.

The present application was filed on October 25, 2001. Flick '946 was filed on March 25, 2002 and published on November 21, 2002. Flick '946 therefore does not qualify as prior art under section 102(e).

The Examiner stated that this argument was not persuasive, and referred to the filing date of a provisional application to which Flick '946 claims priority. Office Action mailed December 6, 2004 at page 5. This fact has no bearing on the operative issue. *In re Wertheim*, 646 F.2d 527, 536-537, 209 USPQ 554 (CCPA 1981).

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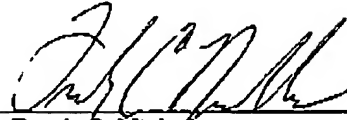
**SUMMARY**

The final rejection of claims 1-31 should be reversed.

Dated. **February 23, 2005**

Respectfully submitted,  
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**CLAIMS APPENDIX**

- 1      A service vehicle for making service calls at a plurality of locations, the service vehicle comprising:
  - a position determination device;
  - a subsystem indicator indicating a condition of a subsystem of the service vehicle;
  - an associated mobile communication device; and
  - a hub in permanent communication with a central computer, the hub communicating with the position determination device, the subsystem indicator, and the mobile communication device.
2.      The service vehicle of claim 1 wherein the position determination device comprises a global positioning system receiver.
3.      The service vehicle of claim 1 wherein the subsystem indicator indicates the condition of an ignition of the service vehicle.
4.      The service vehicle of claim 1 wherein the subsystem indicator indicates the condition of an odometer of the service vehicle.
5.      The service vehicle of claim 1 wherein the hub is in wireless communication with a cellular telephone tower.
6.      The service vehicle of claim 1 wherein the central computer communicates with an Internet site.
7.      The service vehicle of claim 1 wherein the central computer comprises a private network.

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8. The service vehicle of claim 1 wherein the hub communicates with the central computer at least in part according to CDPD protocol.
9. The service vehicle of claim 1 wherein the hub communicates with the central computer at least in part according to GPRS protocol.
10. The service vehicle of claim 1 wherein the central computer provides directions to the service vehicle to a subsequent destination.
11. The service vehicle of claim 1 wherein the central computer provides traffic data to the service vehicle.
12. The service vehicle of claim 1 wherein the hub is in wireless communication with the mobile communication device.
13. The service vehicle of claim 1 wherein the hub is in wireless communication with the mobile communication device according to an IEEE 802.11 protocol.
14. The service vehicle of claim 1 wherein the hub is in wireless communication with the mobile communication device according to a bluetooth protocol.
15. The service vehicle of claim 1 wherein the hub is in wireless communication with the subsystem indicator.

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16. A system for monitoring a plurality of service vehicles, the system comprising:  
a central computer;  
a position determination device in each service vehicle;  
a subsystem indicator in each service vehicle, the subsystem indicator indicating a condition of a subsystem of the service vehicle;  
a mobile communication device associated with each service vehicle; and  
a hub in each service vehicle, the hub being in permanent communication with the central computer, the hub communicating with the position determination device, the subsystem indicator, and the mobile communication device.
17. The system of claim 16 wherein the position determination device comprises a global positioning system receiver.
18. The system of claim 16 wherein the subsystem indicator indicates the condition of an ignition of the service vehicle.
19. The system of claim 16 wherein the subsystem indicator indicates the condition of an odometer of the service vehicle.
20. The system of claim 16 wherein the hub is in wireless communication with a cellular telephone tower.
21. The system of claim 16 wherein the central computer communicates with an Internet site.
22. The system of claim 16 wherein the central computer comprises a private network.
23. The system of claim 16 wherein the hub communicates with the central computer at least in part according to CDPD protocol.

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24. The system of claim 16 wherein the hub communicates with the central computer at least in part according to GPRS protocol.
25. The system of claim 16 wherein the central computer provides directions to the service vehicle to a subsequent destination.
26. The system of claim 16 wherein the central computer provides traffic data to the service vehicle.
27. The system of claim 16 wherein the hub is in wireless communication with the mobile communication device.
28. The system of claim 16 wherein the hub is in wireless communication with the mobile communication device according to an IEEE 802.11 protocol.
29. The system of claim 16 wherein the hub is in wireless communication with the mobile communication device according to a bluetooth protocol
30. The system of claim 16 wherein the hub is in wireless communication with the subsystem indicator.
31. A method of coordinating a plurality of service vehicles, comprising:
  - providing a central computer;
  - providing each service vehicle with a position determination device, a subsystem indicator, a mobile communication device, and a hub in permanent communication with the central computer, the hub communicating with the position determination device, the subsystem indicator, and the mobile communication device; and
  - directing the service vehicle to a subsequent service call based on the information received by the central computer from the hub.

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**Evidence appendix**

None.

**Related proceedings appendix**

None.